

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION

UNITED STATES OF AMERICA,	:	
	:	
v.	:	CRIMINAL NO. 3:21-CR-9 (CAR)
	:	
CEDDRICK DEMON MERCERY,	:	
	:	
Defendant.	:	
_____	:	

UNOPPOSED MOTION TO CONTINUE TRIAL

Defendant Ceddrick Mercery respectfully requests that the Court continue this case to the next regularly scheduled trial term. The Government does not oppose the request.

(1)

On October 26, 2020, Mr. Mercery was arrested on state charges. On February 10, 2021, a grand jury sitting in the Middle District of Georgia returned an indictment charging Mr. Mercery with two counts of violating 18 U.S.C. § 922(g)(1). On February 25, 2021, undersigned counsel was appointed to represent Mr. Mercery pursuant to the Criminal Justice Act. On that same date, Mr. Mercery was arraigned and subsequently detained. Mr. Mercery remains in custody.

(2)

This case was originally set for a pretrial conference on May 5, 2021 and set for trial on June 7, 2021.

(3)

On April 13, 2021, the Government filed a motion to continue the trial date. Doc. 22. The Court granted the motion on April 14, 2021 noting that “the Government represents that a latent fingerprint was located on a third firearm and intends to present a superseding indictment to the Grand Jury on May 11, 2021.” Doc. 23.

(4)

On July 7, 2021, this Court set a pretrial conference for July 14, 2021. Doc. 24. On that date, Mr. Mercery moved to continue the trial from the August 2021 term of Court to the October 2021 term of Court. Doc. 28.

(5)

On July 8, 2021, the Government superseded the indictment adding another felon in possession of a firearm count. Doc. 26.

(6)

On October 21, 2021, this Court set a pretrial conference for November 3, 2021. Doc. 40. On October 26, 2021, the Government moved to continue the trial from the December 2021 term of Court to the February 2022 term of Court. Doc. 41. On October 26, 2021, the Court granted the motion. Doc. 43.

(7)

On January 24, 2022, the Government moved to continue the trial from the February 2022 term of Court to the April 2022 term of Court. Doc. 49. On January 25, 2022, the Court granted the motion. Doc. 50.

(8)

On February 9, 2022, the Government obtained a second superseding indictment. Doc. 53.

(9)

On March 23, 2022, counsel for the Government represented to defense counsel that it may be seeking a third superseding indictment against Mr. Mercery involving new conduct unrelated to the first three indictments.

(10)

On April 5, 2022, the Court set a pretrial conference for April 13, 2022. Doc. 58. On April 6, 2022, the Government told the Court via email that it had not yet determined whether it intended to add additional charges. But it noted that “realistically, this case would need to be scheduled for June 6th in order to provide sufficient time.”

(11)

On April 11, 2022, the Government electronically produced a large swath of new discovery materials including:

1. Summaries of expert witness testimony for FBI Examiner Erik Carpenter, FBI Examiner Elizabeth Talley, FBI Examiner Aimee Qulia, ATF Special Agent Brian Moore, and ACCPD Ofc. Amanda Blair;
2. CV for ACCPD Officer Amanda Blair;
3. CV for ATF SA Brian Moore;
4. Firearms Nexus Examination Report written by ATF SA Brian Moore;
5. Twenty (20) color photos;
6. Pole camera video footage;
7. FBI-302 written by FBI TFO Jeff Fitzgerald;
8. FBI-302 written by FBI TFO Dana Frost;
9. Two (2) videos of Ceddrick Mercery;
10. ACCPD Ofc. Elmer Jaramillo's investigative report (Case #2019-08180231);
11. ACCPD Ofc. Hovie Lister's investigative report (Case #2019-08180231); and
12. ACCPD Det. Michael Carroll's supplemental report (Case #2019-08180231).

On April 11, 2022, the Government further noted that it had yet to produce other items that it planned to produce later this week including:

1. Official ballistics report regarding the examination of the shell casings recovered from 193 Langford Court in Athens on 8/18/2019 and the KelTec 9mm pistol recovered by ACCPD Ofc. Hunter Blackmon on 8/21/2019.
2. 911 call and corresponding CAD sheet for the 8/18/2019 shooting at 193 Langford Court in Athens; and
3. Identity and anticipated testimony of the Confidential Source of Information referenced in FBI TFO Dana Frost's 302 report.

(12)

Mr. Mercery respectfully requests a continuance so that he can effectively prepare for trial. To date, the Government has produced voluminous discovery including on March 24, 2021, April 23, 2021, April 29, 2021, May 6, 2021, June 9, 2021. As recently as July 1, 2021, July 20, 2021, August 25, 2021, October 10, 2021,

February 15, 2022, March 10, 2022, March 17, 2022, March 23, 2022, and April 11, 2022.

In light of the volume of new discovery, as well as the potential new charges against Mr. Mercery, counsel requires additional time to review the evidence, analyze Rule 16 and *Brady* materials, and to prepare motions to suppress any improperly obtained evidence.

(13)

Mr. Mercery respectfully requests that the Court continue the case until the next trial term. These circumstances warrant finding excusable delay under the Speedy Trial Act, 18 U.S.C. §§ 3161, from today's date through the date of any trial that may be set in the June term. Moreover, the ends of justice will be served by granting this continuance; the interest in a continuance outweighs the best interests of the public and the Defendant in a speedy trial. The Government does not oppose the request.

Defense counsel respectfully notes that he has a medical procedure scheduled for May 31, 2022, and may need a further continuance to allow for recovery time depending on when the trial is rescheduled.

Respectfully submitted this 11th day of April 2022.

By: /s/ Kamal Ghali
Kamal Ghali
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CERTIFICATE OF SERVICE

I hereby certify that on today's date I electronically filed the Motion for Continuance with the Clerk of the Court using the CM/ECF system.

/s/ Kamal Ghali

Kamal Ghali

Attorney for Defendant

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